



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,581	11/19/2003	Sigismondo A. DeTora	WWY1034	6291
56061 7590 11/29/2007 SENNIGER POWERS (WWY) ONE METROPOLITAN SQUARE 16TH FLOOR ST. LOUIS, MO 63102			EXAMINER PADEN, CAROLYN A	
			ART UNIT 1794	PAPER NUMBER
			NOTIFICATION DATE 11/29/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/716,581	<b>Applicant(s)</b> DETORA ET AL.	
	<b>Examiner</b> Carolyn A. Paden	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-14 and 16-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The rejection of the claims under 35 USC 103 over Armstrong in view of Desrosier has been withdrawn in response to applicants' amendments and arguments relative to the claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-14 and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morano (5,549,757).

Morano discloses a process for recrystallizing sugar. In example 1 1000 pounds granulated white refined sugar is pulverized and sprayed with 10 gallons of molasses/refiners syrup blend that has a 79.5 Brix. This combination resulted in a sugar admixture with 2.3% moisture. Then the admixture was fed into a single screw cooker extruder and extruded onto a convey belt and subsequently passed through a knife edge comminuting mill. Finally the product was screened to a desired particle size to form a free flowing sugar (see example 1). Alternative liquid syrup components of the composition are described at column 4, lines 16-25 to include corn

syrup. Claim 1 appears to differ from Morano in the recitation of the concentration of sugar in the liquid sugar. Both Morano and the claimed invention utilize a combination of sugars to achieve a product with low moisture content. To adjust the Brix or sugar concentration of the liquid sugar to control the moisture content of the final blend would have been within the abilities of one of ordinary skill in the art. No unobvious or unexpected difference is seen between the use of the syrup blend concentration in Morano and the syrup blend of the claims. It is appreciated that the grind size of claim 3, 5, 9, 10, 12 and 17 is not mentioned but to grind sugar to one extent over the other is seen to be within the determination of the ordinary artisan.

Claims 1-3, 5-14, 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham (5,642,535).

Graham discloses tableting sugar made from water, sucrose and maltodextrin that is combined to form a solution containing 60-75% solids (column 1, lines 65). Then the syrup is concentrated under vacuum to solids content of 91-97% and introduced into a crystallization zone where it is subjected to impact beating. Upon chilling, sugar crystallization occurs (column 2, lines 7-21). Screening and size reduction are cited as options to

achieve a desired product size. The claims appear to differ from Graham in the recitation of the inclusion of corn syrup but malto- dextrin with a DE of 19 is described as corn syrup (column 2, lines 61-63). The claims also differ in the use of a screw fed mixer and a size reduction comminutor but these are apparatus limitations, carrying no weight in these process claims. The claims finally differ in the particle size of the sucrose but no unobvious or unexpected result is seen from this feature because the sucrose/liquid syrup blend is process to reduce and control the particle size of the coated sucrose product. It would have been obvious to one of ordinary skill in the art to utilize mixing, beating, drying and grinding the process of Graham in place achieve the granulated sucrose of the claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

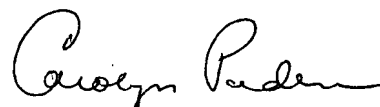
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached by dialing 571-272-1700, art unit 1794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Application/Control  
Number: 10/716,581  
Art Unit: 1794

Page 6

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CAROLYN PADEN 11-23-07  
PRIMARY EXAMINER  
GROUP ~~1300~~ 1794